

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:05-00156

JAMES MICHAEL KITCHEN

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On February 7, 2012, the United States of America appeared by Philip H. Wright, Assistant United States Attorney, and the defendant, James Michael Kitchen, appeared in person and by his counsel, Deirdre H. Purdy, for a hearing on the petition on supervised release submitted by United States Probation Officer Patrick M. Fidler, the defendant having commenced a three-year term of supervised release in this action on April 7, 2010, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on February 17, 2006.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant failed to abide by the standard condition that he not commit another crime inasmuch as, on or about July 7, 2011, the defendant committed the federal and state offense of possession with intent to distribute synthetic marijuana as evidenced by his plea of guilty on January 3, 2012, in the Circuit Court of Kanawha County; and (2) that the defendant failed to abide by the standard condition that he not unlawfully possess a controlled substance inasmuch as he possessed synthetic marijuana on July 7, 2011, as set forth above; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously

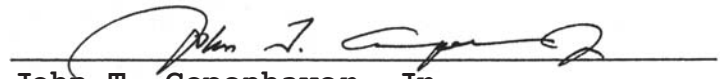
imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense, the intervening conduct of the defendant and after considering the factors set forth in 18 U.S.C. § 3553(a), that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of EIGHTEEN (18) MONTHS, to be followed by a term of eighteen months of supervised release upon the standard conditions of supervised release now in effect in this district by order entered June 22, 2007, and the further condition that the defendant not commit another federal, state or local crime. The court strongly recommends that the defendant receive credit for over-served time with respect to the 42-month sentence of imprisonment on the underlying conviction for which the defendant was serving the three-year term of supervised release ordered revoked above.

In the event the Bureau of Prisons determines that any part of the eighteen-month term of imprisonment is to be served, the defendant shall surrender for service of the sentence to the institution designated by the Bureau of Prisons by 2:00 p.m. on April 13, 2012.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: February 9, 2012



John T. Copenhaver, Jr.
United States District Judge